



HFV

PTO/SB/21 (01-09)

Approved for use through 02/28/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/719,493-Conf. #3218
	Filing Date	November 21, 2003
	First Named Inventor	Arthur M. Krieg
	Art Unit	1643
	Examiner Name	A. Gussow
Total Number of Pages in This Submission	Attorney Docket Number	C1039.70021US01

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Receipt Postcard Form PTO-1449 Copies of cited references
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	WOLF, GREENFIELD & SACKS, P.C.		
Signature			
Printed name	Helen C. Lockhart		
Date	April 16, 2009	Reg. No.	39,248

Certificate of Mailing Under 37 CFR 1.8(a)	
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Dated: April 16, 2009	Signature:  (Amelia S. Lennon)



DOCKET NO.: C1039.70021US01


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Krieg et al.  
Serial No.: 10/719,493  
Confirmation No.: 3218  
Filed: November 21, 2003  
For: METHODS OF TREATING CANCER USING  
IMMUNOSTIMULATORY OLIGONUCLEOTIDES  
Examiner: Anne Gussow  
Art Unit: 1643

---

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 16th day of April, 2009.

  
Amelia S. Lennon

---

**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Madam:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing of a first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

No fee or certification is required.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>	<u>Docket No.</u>
11/992,080	03-14-2008	Bauer	*C1041.70052US01
11/992,627	03-26-2008	Jurk et al.	*C1041.70051US01
12/196,201	08-21-2008	Davis et al.	*C1037.70039US02
12/248,493	10-09-2008	Krieg et al.	*C1039.70048US26
12/287,382	10-07-2008	Bratzler et al.	*C1037.70052US02
12/336,986	12-17-2008	Krieg et al.	*C1037.70059US02
12/393,866	02-26-2009	Krieg et al.	*C1039.70035US06

\*A copy of this reference is not provided as the Office has waived the requirement under 37 C.F.R. 1.98(a)(2)(iii) for submitting a copy of a cited U.S. patent application if it is scanned to the Image File Wrapper system and is available on Private PAIR.

The Applicant hereby makes the following additional information of record in the above-identified application, copies of which are enclosed.

**Office Action mailed 08/04/2008 for Application No. 10/679,710 (C1039.70074US00)**

**Office Action mailed 10/29/2007 for Application No. 10/679,710 (C1039.70074US00)**

**Office Action mailed 11/26/2008 for Application No. 10/631,676 (C1039.70082US00)**

**Office Action mailed 03/05/2008 for Application No. 10/631,676 (C1039.70082US00)**

**Office Action mailed 03/05/2009 for Application No. 11/645,106 (C1039.70083US17)**

**Office Action mailed 06/11/2008 for Application No. 11/645,106 (C1039.70083US17)**

### PART III: Remarks Concerning Other Information Cited

The instant patent application derives priority from US 6,207,646 B1, which was involved in an Interference (Interference No. 105,171). In view of the priority, Applicants have cited in the Information Disclosure Statement filed on October 30, 2007, a listing of all of the motions filed, the judgment rendered by the Board of Patent Appeals and Interferences, appeal briefs, and appeal decision, which considered the 35 U.S.C. §135(b)(1) motion dispositive up to that date. Copies of these documents were enclosed for the Examiner's review.

Additionally, US patent application 09/337,584 with claims directed to the treatment of asthma is now in an Interference (No. 105,526). Copies of papers filed with respect to that Interference were submitted in the Information Disclosure Statement filed on October 30, 2007. Copies of additional papers filed with respect to that Interference are submitted herewith. If the Examiner would like any additional information on this subject, she is encouraged to contact Applicant's representative at the number listed below.

Furthermore, The Applicant would now like to make the Examiner aware that US patent application 09/337,584 with claims directed to the treatment of asthma is now in another Interference (No. 105,674). Copies of papers filed with respect to that Interference are submitted herewith. If the Examiner would like any additional information on this subject, she is encouraged to contact Applicant's representative at the number listed below.

#### PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

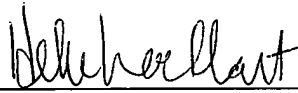
By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:



Helen C. Lockhart, Ph.D., Reg. No. 39,248  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: C1039.70021US01  
Date: April 16, 2009  
xNDDx